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Attorneys for Plaintiff
GILEAD SCIENCES, INC.

Additional counsel listed on signature page

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(SAN JOSE DIVISION)**

GILEAD SCIENCES, INC.,

Plaintiff and Counterdefendant,

v.

MERCK & CO, INC. (Defendant only), MERCK
SHARP & DOHME CORP. and ISIS
PHARMACEUTICALS, INC.,

Defendants and Counterclaimants.

Case No. 5:13-cv-04057-BLF/PSG

**GILEAD SCIENCES, INC.'S RENEWED
MOTION FOR JUDGMENT AS A
MATTER OF LAW UNDER FED. R. CIV.
P. 50(b), OR IN THE ALTERNATIVE FOR
A NEW TRIAL UNDER FED. R. CIV. P.
59, ON GILEAD'S DERIVATION AND
PRIOR INVENTION DEFENSES**

Date: TBD

Time: TBD

Place: Courtroom 3 - 5th Floor

Judge: Honorable Beth Labason Freeman

NOTICE OF MOTION AND MOTION

TO THE COURT AND ALL COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on the date subsequently set by the Court for hearing on the parties' post-trial motions, Plaintiff Gilead Sciences, Inc. ("Gilead"), will, and hereby does, renew its motion, pursuant to Federal Rule of Civil Procedure 50(b), for judgment as a matter of law on its defenses of derivation and prior invention. In the alternative, Gilead moves for a new trial on these defenses under Rule 59.

STATEMENT OF RELIEF REQUESTED

Gilead requests judgment that U.S. Patents Nos. 7,105,499 and 8,481,712 are invalid due to derivation under 35 U.S.C. § 102(f). Gilead further requests judgment that U.S. Patents Nos. 7,105,499 and 8,481,712 are invalid due to prior invention under 35 U.S.C. § 102(g). In the alternative, Gilead seeks a new trial on whether U.S. Patents Nos. 7,105,499 and 8,481,712 are invalid due to derivation and prior invention.

As stipulated by the parties and ordered by the Court, (ECF No. 404), Gilead will file supporting briefing with its points and authorities on this motion in conjunction with and on the same schedule as the parties' other post-trial motions, after the entry of judgment.

Dated: April 21, 2016

FISH & RICHARDSON P.C.

By: /s/ Joseph B. Warden
Joseph B. Warden

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